Supreme Court, U.S.
FILED
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No. 09-1

IN THE
Supreme Court of the United States

VIKAS SAREEN,
Petitioner,

v.

REEMA SAREEN, RAJIV K. GROVER, BALDEV R. GROVER, PREETI GROVER and DENA GROVER,
Respondents.

On Petition for Writ of Certiorari to the Supreme Court of the State of New York, Appellate Division, Second Department

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PETITION FOR A WRIT OF CERTIORARI

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April 15, 2009

QUESTIONS PRESENTED

1 Whether the decision of New York Supreme Court, Appellate Division, Second Department violates Equal Protection of Laws guaranteed under the U.S. Constitution, Amend. XIV and New York Constitution, Art. I, § 11 when it denied petitioner relief in contravention of New York law.

2 Whether the decision of New York Supreme Court, Appellate Division, Second Department violates Trial by Jury and Due Process of Law guaranteed under the U.S. Constitution, Amends. VII, XIV and New York Constitution, Art. I, §§ 2,6 when it denied petitioner relief in contravention of New York law.

PARTIES TO THE PROCEEDING

Vikas Sareen was the petitioner-appellant and Reema Sareen, Rajiv K. Grover, Baldev R. Grover, Preeti Grover and Dena Grover were the defendants-respondents in the proceedings below.

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IN THE
Supreme Court of the United States

No. 08 -_____

VIKAS SAREEN,
Petitioner,

v.

REEMA SAREEN, RAJIV K. GROVER,
BALDEV R. GROVER, PREETI GROVER
and DENA GROVER,
Respondents.

Petition for Writ of Certiorari
to the Supreme Court of the State of New York,
Appellate Division, Second Department

PETITION FOR A WRIT OF CERTIORARI

VIKAS SAREEN respectfully petitions for a writ of certiorari to review the judgment of the Supreme Court of the Court of New York, Appellate Division, Second Department.

OPINIONS BELOW

The opinion of the Supreme Court of New York, Appellate Division, Second Department (App.1a-3a, *infra.*) affirming trial court's order is

reported at 858 N.Y.S.2d 285. New York trial court's order is reprinted at (*id.*, 4a-9a).

JURISDICTION

The New York Court of Appeals (App. 10a, *infra.*) denied discretionary review on January 15, 2009. The jurisdiction of this Honorable Court is invoked under 28 U.S.C.A. § 1257(a).

CONSTITUTIONAL PROVISIONS INVOLVED

The relevant provisions of the United States Constitution and New York State Constitution are set forth at App. 16a-18a, *infra.*

STATEMENT OF THE CASE

A. Factual Background.

Petitioner, Vikas Sareen filed a civil action on several grounds, *inter alia,* based on Fraud against defendants who conspired to lure him into a sham marriage on false pretenses, with their family member, defendant Reema Sareen.

Petitioner, a professional engineer who was completing his law degree at the time, contends that defendants conspired and falsely projected defendant Reema Sareen as a college graduate, when she was not, for the sole purpose of acquiring immigration status through a sham marriage with the petitioner, a U.S. Citizen, and pecuniary benefit expected from a divorce planned by the defendants from the outset.

B. Procedural Background.

Petitioner commenced the New York action in State Court in August of 2006. Two of the five defendants defaulted and remaining defendants filed a motion to dismiss on several grounds including failure to state a cause of action. Trial Court misconstrued Fraud cause of action as a Breach of Contract action and remained silent on other causes of action and granted answering defendants' motion to dismiss on failure to state a cause of action by its Order dated May 21, 2007 (App. 4a-9a, *infra.*).

Aggrieved by the aforesaid Order, petitioner filed a motion to reargue and renew in the trial court that was denied by trial court order dated July 19, 2007(*id.*, 13a-15a). Petitioner appealed from both orders. Appellate Court recognized petitioner's cause of action as based on Fraud and not Contract. However, Appellate Court affirmed lower court's order on May 13, 2008 (*id.*, 1a-3a), by noting that petitioner did not "justifiably rely" on defendants' misrepresentations. The Court also denied relief on the emotional distress cause of action on grounds of inter-spousal immunity even though there were several named defendants and remained silent on additional causes of action of false advertising, unjust enrichment and internet fraud. Subsequently, petitioner, in his motion to reargue and/or leave to appeal, pointed out that according to New York law, a petitioner states a viable cause of action when the defendants, *as here*, know the falsity of their misrepresentations. Furthermore, whether or not petitioner "justifiably relied" on defendants' misrepresentations is a "question-of-fact" to be

decided by the jury and not on pleadings in a motion. Appellate Court summarily denied relief and remained silent on other causes of action via its Order dated September 16, 2008 (App.12a-13a, *infra.*).

Petitioner's leave to appeal to the New York Court of Appeals was denied on January 15, 2009 (*id.*, 10a-11a).

REASONS FOR GRANTING THE PETITION

I. DECISION INVOKES EQUAL PROTECTION OF LAWS PROVISIONS OF THE UNITED STATES AND NEW YORK STATE CONSTITUTIONS.

The decision below has violated Equal protection of laws guaranteed by the Fourteenth Amendment of the United States Constitution and New York State Constitution, Art. I, § 11. New York test for "justifiable reliance" element of the Fraud cause of action in pertinent part states, " *if the facts represented are not matters peculiarly within the party's knowledge*, and the other party has means available to him of knowing, by the exercise of ordinary intelligence, the truth of the real quality of the subject of the representation, he must make use of those means, or he will not be heard to complain that he was induced to enter into the transaction by misrepresentation", *Danann Realty Co.. v. Harris*, 5 N.Y.2d 317, 322 (1959), quoting *Shumaker v. Mather*, 133 N.Y. 590, 596 (1892).

In the instant case, facts misrepresented were within the peculiar knowledge of the defendants.

Selective reading of the New York Court of Appeals test by ignoring the first-half thereof is a clear misapplication of the law and violates the principle of Equal Protection of laws enunciated by the aforementioned federal and state constitutional provisions.

It is pertinent to mention that the New York Supreme Court, Appellate Division, Second Department has recognized the aforementioned test by its holding in *Tahini Investments v. Bobrowsky*, 470 NYS2d 431(2nd Dept., 1984), where it held the case to be actionable as the subject of the misrepresentation was, *as here,* within the representator's peculiar knowledge.

II. DECISION USURPED THE JURY FUNCTION AND VIOLATED DUE PROCESS GUARANTEED BY THE FEDERAL AND NEW YORK STATE CONSTITUTIONS.

The decision below has usurped the jury function embodied by the Seventh Amendment of the United States Constitution and Art. I, § 2 of the New York State Constitution.

New York case law has held that the issue of "justifiable reliance" is not to be resolved by motions at pleadings stage, but is a question for the trier-of-facts, *Dygert v. Leonard*, 525 NYS2d 436 (1988), *PT Bank Asia v. ABM AMRO*, 754 NYS2d 245, 252(2003). In the instant case, justifiable reliance was on a 'fact' and not an 'opinion' and within the peculiar knowledge of the defendants. The decision has foreclosed any determination by the jury in

direct violation of the aforementioned provisions of the federal and state constitutions.

The decision has also violated due process protections of the Fourteenth Amendment of the federal constitution and Art. I, § 6 of the New York State Constitution by not considering additional causes of action presented by the petitioner, namely false advertising, unjust enrichment and internet fraud and dismissing the entire action in contravention of New York law that states that where a motion to dismiss for failure to state a cause of action is directed at the whole complaint, *as here*, it must be denied in its entirety if any one cause is legally sufficient, *Greifer v. Newman*, 253 N.Y.S.2d 791 (1964). Further, dismissal of emotional distress cause of action against defendants, not immune under inter-spousal privilege, at a pleadings stage is in contravention of due process protections.

III. SEVERAL JURISDICTIONS INCLUDING NEW YORK HAVE RECOGNIZED FRAUD CAUSE OF ACTION IN THE RELEVANT CONTEXT.

The fraud in the inducement of marriage has been recognized by other state jurisdictions, including *Miller v. Miller, et al*, 956 P2d 891 (Oklahoma Supreme Ct., 1998) and *Rabie v. Rabie*, 40 Cal. App.3d 917 (California, 2nd Appellate District, 1974). New York has also recognized fraud in the matrimonial context, *Howard S. v. Lillian S., et al*, 2009 NY Slip Op 01880(NY, 1st Appellate Dept., March 17, 2009).

Petitioner contends that defendants committed Fraud in the inducement of the marriage and such fraudulent conduct was within their knowledge. Fraud was entered into for a Green Card and to implement a "Quick-Rich" scheme from a divorce award planned from the outset.

Fraud in this case has been perpetrated by unscrupulous defendants in a collective effort with a motive. It extends to false representations in person, over the internet and even extends to fabrication of forged documents. Petitioner's reliance on defendants' representations was justified as explained in detail in the record below. Further, time and time again unscrupulous people have knowingly defrauded unsuspecting victims for a material benefit. Some notorious examples include Marilee Jones, MIT's Dean of Admissions, who lied about her degrees for 28 years before being caught, (New York Times, April 27,2007; Section A, p.1, col. 5); Bernard Madoff, who has usurped hard-earned savings of countless victims in his multi-billion dollar ponzi scheme; and Howard Kieffer, who projected himself as a criminal defense attorney for over 15 years in front of federal courts across the country and successfully duped fellow lawyers, federal judges and his victim-clients whereas he never attended any law school (or any college for that matter) nor was he licensed to practice law in any jurisdiction, (ABA Journal, 'Catch Me If You Can', April, 2009, p. 44).

It is pertinent to mention that petitioner has recently discovered that defendant Reema Sareen has been arrested and convicted for the crime of Theft and Embezzlement from her Employer by Sacramento Superior Court, California pursuant to

California Penal Code § 508, Case no. 06M12964, *County of Sacramento v. Reema Sareen.*

IV. SUPREME COURT SHOULD GRANT PETITION FOR WRIT OF CERTIORARI IN THE INTERESTS OF JUSTICE.

The proceedings below have initially misconstrued the Fraud cause of action as a Breach of Contract action and then ignored New York precedents in contravention of federal and state constitutional protections. Petitioner has painstakingly attempted to underscore misapprehension of law and facts to each court only to penultimately being denied review by New York's Court of last resort. Aggrieved by summary dismissals of his action to date, petitioner stands in front of the Supreme Court of the Land with a prayer and hope for justice.

CONCLUSION

Petitioner respectfully requests this Court to grant his petition for a writ of certiorari in the interests of justice.

Respectfully submitted,

Vikas Sareen

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April 15, 2009

APPENDIX

APPENDIX A

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

Argued - April 18, 2008
PETER B. SKELOS, J.P.
FRED T. SANTUCCI
RUTH C. BALKIN
CHERYL E. CHAMBERS, JJ.

2007-05956, 2007-07847
DECISION & ORDER

Vikas Sareen, appellant, v Reema Sareen, et al., respondents, et al., defendants.

(Index No. 18592/06)

Vikas Sareen, Fresh Meadows, N.Y., appellant pro se.

Steven F. Pugliese, New York, N.Y., for respondents.

In an action, inter alia, to recover damages for fraud, the plaintiff appeals from (1) an order of the Supreme Court, Queens County (Kitzes, J.), dated May 21, 2007, which granted that branch of the motion of the defendants Reema Sareen, Rajiv K. Grover, and Dena Grover which was to dismiss the complaint insofar as asserted against them pursuant to CPLR 3211(a)(7), and (2) an order of the same court dated July 19, 2007, which denied his separate motions for leave to reargue and renew.

ORDERED that the order dated May 21, 2007, is affirmed; and it is further,

ORDERED that the appeal from so much of the order dated July 19, 2007, as denied the plaintiff's motion for leave to reargue is dismissed, on the ground that no appeal lies from an order denying reargument; and it is further,

ORDERED that the order dated July 19, 2007, is affirmed insofar as reviewed; and it is further,

ORDERED that one bill of costs is awarded to the respondents.

The plaintiff seeks to recover damages for fraud from his estranged wife, Reema Sareen, and her family, on the ground that, in inducing him to marry her, they claimed that she had a college degree, when she did not. The plaintiff's complaint failed to state a cause of action, since he failed to plead that he justifiably relied upon these alleged misrepresentations in determining whether to enter into the marriage (see *Valassis Communications v Weimer*, 304 AD2d 448).

The plaintiff's claim that he asserted a cause of action sounding in intentional infliction of emotional distress is without merit. New York does not recognize a cause of action to recover damages for intentional infliction of emotional distress between spouses (see *Xiao Yang Chen v Fischer*, 6 NY3d 94, 100, n 2; *Weicker v Weicker*, 22 NY2d 8; *Nacson v Semmel*, 292 AD2d 432). Further, the plaintiff does not allege any conduct on the part of the respondents which could constitute intentional infliction of emotional distress

(see *Howell v New York Post Co.* , 81 NY2d 115, 121; *Scarfone v Village of Ossining*, 23 AD3d 540).

The plaintiff's remaining contentions are without merit (see *Clark Fitzpatrick, Inc. v Long Is. R.R. Co.*, 70 NY2d 382, 388).

SKELOS, J.P., SANTUCCI, BALKIN and CHAMBERS, JJ., concur.

ENTER:

James Edward Pelzer
Clerk of the Court

May 13, 2008

APPENDIX B

NEW YORK SUPREME COURT - QUEENS COUNTY
PRESENT: HON. ORIN R. KITZES PART 17
Justice

----------x

VIKAS SAREEN,

Plaintiff,

Index No.: 18592/06
Motion Date: 5/16/07
Motion Cal. No.: 51

-against-

REEMA SAREEN, RAJIV K. GROVER, BALDEV R. GROVER, PREETI GROVER, and DENA GROVER,

Defendants.

----------x

The following papers numbered 1 to 10 read on this motion by defendants Reema Sareen, Rajiv K. Grover and Dena Grover for an order pursuant to CPLR 3211(a) (4) & (7).

	Papers Numbered
Notice of Motion-Affirmation-Exhibits	1-4
Affirmation in Opposition-Exhibits	5-7
Reply Affirmation-Exhibits	8-10

Upon the foregoing papers it is ordered that the motion by defendants Reema Sareen, Rajiv K. Grover and Dena Grover for an order pursuant to CPLR 3211(a) (2), (4) and (7), dismissing the complaint because the court does not have jurisdiction of the subject matter of the cause of action, there is another

action pending between the same parties for the same cause of action, and for failure to state a cause of action and failure to plead fraud with particularity, respectively, is decided as follows:

According to the complaint, on or about April 12, 2001, defendants conspired and placed an advertisement on the Internet called "Reema Grover's Matrimonial Home Page." The purpose of this advertisement was to find a well-educated husband for Reema Grover and enable her to settle abroad. The advertisement worked and plaintiff married Reema Grover on February 17, 2002, in New Delhi, India. Thereafter, Reema Grover became Reema Sareen and with her husband's help, received permanent immigrant status in the United States. The couple had a child born in a Queens hospital in early September 2002. Plaintiff alleges that the marriage was not a happy one, due to Reema Sareen's bad faith, that extended to placing her menstrual blood in his food. Plaintiff filed for divorce on August 27, 2004, in court in India. On October 22, 2004, plaintiff discovered that Reema Sareen had committed a fraud in the placement of her advertisement: she had lied about having obtained a college degree. She and the other defendants perpetrated this fraud solely to induce the marriage and enable her to become a permanent resident of the United States, without any intention to remain in the marriage once her residency status was obtained. . Plaintiff alleges that had he known about his wife's lack of a college degree and her true reasons for the marriage, he would not have entered into the marriage contract.

The branch of defendants Reema Sareen, Rajiv

K. Grover and Dena Grover motion to dismiss the complaint pursuant to CPLR 3211 (a) (7) is granted. "It is well-settled that on a motion to dismiss a complaint for failure to state a cause of action pursuant to CPLR 3211(a)(7), the pleading is to be liberally construed, accepting all the facts alleged in the complaint to be true and according the plaintiff the benefit of every possible favorable inference. (Jacobs v Macy's East, Inc., 262 AD2d 607, 608; Leon v Martinez, 84 NY2d 83.) The court does not determine the merits of a cause of action on a CPLR 3211(a)(7) motion (see, Stukuls v State of New York, 42 NY2d 272; Jacobs v Macy's East Inc., supra), and the court will not examine affidavits submitted on a CPLR 3211(a)(7) motion for the purpose of determining whether there is evidentiary support for the pleading. (See, Rovello v Orofino Realty Co., Inc., 40 NY2d 633.) The plaintiff may submit affidavits and evidentiary material on a CPLR 3211(a)(7) motion for the limited purpose of correcting defects in the complaint. (See, Rovello v Orofino Realty Co., Inc., supra; Kenneth R. v Roman Catholic Diocese of Brooklyn, 229 AD2d 159.) In determining a motion brought pursuant to CPLR 3211(a)(7), the court "must afford the complaint a liberal construction, accept as true the allegations contained therein, accord the plaintiff the benefit of every favorable inference and determine only whether the facts alleged fit within any cognizable legal theory." (1455 Washington Ave. Assocs. v Rose & Kiernan, supra, 770-771; Esposito-Hilder v SFX Broadcasting Inc., 236 AD2d 186.)

The complaint fails to allege the essential elements of a fraud cause of action and does not set forth in detail the circumstances constituting the alleged fraud. In order to state a cause of action for

fraud, a plaintiff must allege a misrepresentation or material omission of fact which was false and known to be false by the defendant and made for the purpose of inducing the plaintiff to rely upon it, justifiable reliance of the plaintiff on the misrepresentation or material omission, and injury. Lama Holding Co. v Smith Barney, 88 N.Y.2d 413 (1996.)

Here, plaintiff has failed to allege any of the defendants acted in such fraudulent manner. Plaintiff's claim was not pleaded with the particularity mandated by CPLR 3016(b). Although plaintiff alleges that defendants gave false information concerning the education achievement of Reema Sareen and this was the fraud, they fail to specify how this fact deceived him and deprived him of the benefit of the marriage, or induced him to enter into the marriage contract. See, Brown v Wolf Group, 23 AD3d 239 (1st Dept 2005.) The marriage did result in the couple creating a child, which is generally viewed as a marital benefit. Also, plaintiff's desire for the apparent advantages of a woman with a college degree were apparently satisfied since he had many opportunities to ascertain his future wife's education level prior to the marriage. Moreover, it would have been very easy for plaintiff to either receive proof from Reema Sareen about her education status or to have found out about her status on his own. Plaintiff's failure to have obtained this information renders his claims of reliance upon the fraudulent representation unreasonable. See, Valassis Communs. Inc. v Weimer, 304 AD2d 448 (1st 2003.) In addition, no cause of action to recover damages for fraud arises when the only fraud alleged relates to a breach of contract. S.S.I.G. Realty v. Bologna Holding Corp., 213 A.D.2d 617 (2d Dept 1995.) It is clear that

plaintiff has alleged no more than a breach of contract action. Plaintiff's allegations are in essence that defendants did not intend to honor their marriage contract or failed to perform it as promised, which is insufficient to state a claim for fraud. Bencivenga & Co. v Phyfe, 210 A.D.2d 22 (1st Dept 1994.) Thus, the plaintiff has failed to set forth a meritorious claim. Accordingly, the branch of the motion to dismiss the complaint based upon CPLR 3211 (a) (7) is granted and the complaint is dismissed.

Based upon the above, the court will not address the other branches of the motion for dismissal. The court notes that contrary to plaintiff's allegations, this Court's decision on the default motion in no way acted as a finding that the complaint was valid. That decision found sufficient "proof of the facts constituting the claim", not that the claim set forth a sufficient cause of action. CPLR 3215 (f). As such, the decision does not prevent the dismissal of the complaint pursuant to CPLR 3211 (a) (7).

Dated: May 21, 2007

ORIN R. KITZES, J.S.C.

APPENDIX C

State of New York
Court of Appeals

At a session of the Court, held at Court of Appeals Hall in the City of Albany on the fifteenth day of January, 2009

Present, HON. CARMEN BEAUCHAMP CIPARICK, *Acting Chief Judge, presiding.*

Mo. No. 1301

Vikas Sareen,

Appellant,

v.

Reema Sareen, et al.,

Respondents, et al.,
Defendants.

A motion for leave to appeal to the Court of Appeals in the above cause having heretofore been made upon the part of the appellant herein, papers having been submitted thereon and due deliberation having been thereupon had, it is

ORDERED, that the said motion be and the same hereby is denied with one hundred dollars costs and necessary reproduction disbursements.

Stuart M. Cohen
Clerk of the Court

APPENDIX D

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

PETER B. SKELOS, J.P.
FRED T. SANTUCCI
RUTH C. BALKIN
CHERYL E. CHAMBERS, JJ.

2007-05956, 2007-07847
DECISION & ORDER ON MOTION

Vikas Sareen, appellant, v Reema Sareen, et al., respondents, et al., defendants.
(Index No. 18592/06)

Motion by the appellant for leave to reargue appeals from two orders of the Supreme Court, Queens County, dated May 21, 2007, and July 19, 2007, respectively, which were determined by decision and order of this court dated May 13, 2008, or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this court.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, it is

ORDERED that the motion is denied, with $100 costs. SKELOS, J.P., SANTUCCI, BALKIN and CHAMBERS, JJ., concur.

ENTER:

James Edward Pelzer
Clerk of the Court

September 16, 2008

APPENDIX E

NEW YORK SUPREME COURT - QUEENS COUNTY

PRESENT: HON. ORIN R. KITZES PART 17
Justice

----------x

VIKAS SAREEN,

Plaintiff,

Index No.: 18592/06
Motion Date: 7/18/07
Motion Cal. No.: 59 & 60

-against-

REEMA SAREEN, RAJIV K. GROVER, BALDEV R. GROVER, PREETI GROVER, and DENA GROVER,

Defendants.

----------x

The following papers numbered 1 to 15 read on these motions by plaintiff to renew and reargue this court's order dated May 21, 2007, and upon renewal or reargument seeks the denial of defendants' motion to dismiss pursuant to CPLR 3211 and permission to serve an amended complaint. For purposes of disposition, motions numbered 59 and 60 are consolidated.

	Papers Numbered
Notice of Motion-Affirmation-Exhibits	1-4
Affirmation in Opposition	5-6
Reply Affidavit	7-8
Notice of Motion-Affirmation-Exhibits	9-12
Reply Affidavit-Exhibit	13-15

Upon the foregoing papers it is ordered that the motions are denied for the following reasons:

In its May 21, 2007 order, this court granted the branch of defendants Reema Sareen, Rajiv K. Grover and Dena Grover motion to dismiss the complaint pursuant to CPLR 3211 (a) (7). The court found that the complaint failed to allege the essential elements of a fraud cause of action and did not set forth in detail the circumstances constituting the alleged fraud. The plaintiff had failed to allege any of the defendants acted in a sufficiently fraudulent manner and plaintiff's claim was not pleaded with the particularity mandated by CPLR 3016(b). The Court also found that plaintiff's failure to have obtained the truth about the fraudulent information, although easily capable of doing so, rendered his claims of reliance upon the fraudulent representation unreasonable. *See*, Valassis Communs. Inc. v Weimer, 304 AD2d 448 (1st Dept 2003.) Finally the Court found that no cause of action to recover damages for fraud arises when the only fraud alleged relates to a breach of contract. Plaintiff's allegations were in essence that defendants did not intend to honor their marriage contract or failed to perform it as promised, which is insufficient to state a claim for fraud. Bencivenga & Co. v Phyfe, 210 A.D.2d 22 (1st Dept 1994.)

Plaintiff has failed to meet his burden of establishing that this court misapprehended either the facts or the law so as to warrant reargument (Foley v Roche, 68 AD2d 558, 567 [1979], lv denied 56 NY2d 507 [1982]). Additionally, a motion to reargue is not a vehicle "to permit the unsuccessful party to argue once again the very questions previously decided" (id. at

567). Furthermore, plaintiff has not proffered any new facts or law which would change this court's prior determination (see id.) as to warrant renewal pursuant to CPLR 2221(e)(2). Accordingly these motions are denied.

Dated: July 19, 2007

ORIN R. KITZES, J.S.C.

APPENDIX F

CONSTITUTIONAL PROVISIONS

United States Constitution

Amendment VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to rules of the common law.

Amendment XIV; Section 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

New York State Constitution

Article I; Section 2

In pertinent part, "Trial by jury in all cases in which it has heretofore been guaranteed by constitutional provision shall remain inviolate forever; but a jury trial may be waived by the parties in all civil cases in the manner".

Article I; Section 6

In pertinent part, "No person shall be deprived of life, liberty or property without due process of law".

Article I; Section 11

No person shall be denied the equal protection of the laws of this state or any subdivision thereof. No person shall, because of race, color, creed or religion, be subjected to any discrimination in his or her civil rights by any other person or by any firm, corporation, or institution, or by the state or any agency or subdivision of the state.